

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of) MB Docket No. 14-82
)
PATRICK SULLIVAN) FRN 0003749041, 0006119796,
(Assignor)) 0006149843, 0017196064
)
and) Facility ID No. 146162
)
LAKE BROADCASTING, INC.) File No BALFT-20120523ABY
(Assignee))
)
Application for Consent to Assignment of)
License of FM Translator Statin W238CE,)
Montgomery, Alabama)

To: Marlene H. Dortch, Secretary
Attention: Chief Administrative Law Judge Richard L. Sippel

**LAKE BROADCASTING, INC.'S OPPOSITION TO
ENFORCEMENT BUREAU'S STATUS REPORT**

Lake Broadcasting, Inc. ("Lake"), by its attorney, pursuant to Section 1.294 of the Commission's Rules, hereby opposes the Enforcement Bureau's ("Bureau") "Status Report," filed on February 3, 2017, as wholly inadequate, and asks the Presiding Judge to require the Bureau to provide Lake with copies of the two subpoenas that the Presiding Judge issued to the Missouri Department of Corrections and with the entire texts of the responses to those subpoenas. In addition, Lake respectfully requests that, before a hearing date is set in this proceeding, the Presiding Judge should conduct a further Prehearing Conference to explore the facts surrounding the scurrilous accusations made against Michael Rice in the Bureau's December 12, 2106 "Motion Concerning Expert Witness Documentation" and the subsequent

abandonment of those accusations by the Bureau and the Missouri Department of Corrections.

In support whereof, the following is shown:

1. On December 12, 2016, the Bureau filed a scurrilous, unsupported, and diversionary Motion containing a tale of alleged witness intimidation (“someone claiming to represent Mr. Rice had threatened to pursue legal action against Ms. Tammie Gremminger if she continued to participate in the Commission’s hearing process”), which lacked all of the specifics necessary to give the tale any credence and which also diverted attention away from the question of the existence *vel non* of Ms. Gremminger’s alleged credentials. We were not told when the Bureau learned of the alleged intimidation; who told the Bureau about it (a “colleague” is not enough); the identity of the alleged intimidator; when the alleged intimidation occurred; when Ms. Gremminger contacted legal counsel at the Department of Corrections and was instructed to have no further contact with the Bureau until the Department of Corrections completed its investigation; who told her to cease contact with Bureau; who is conducting the investigation at the Department of Corrections; when the investigation began; and when it is expected to conclude.

2. Lake moved to strike the Motion on December 13, 2016, but the Presiding Judge denied that Motion (FCC 16M-37, released December 22, 2016) and ordered Mr. Rice to provide an affidavit or declaration that neither he nor anyone else at his direction, on his behalf, or to his knowledge contacted Ms. Gremminger or the Missouri Department of Corrections in an effort to threaten her continued involvement in this case. That same day (December 22), Mr. Rice filed

the requested declaration.

3. Even before the Presiding Judge ruled, the Bureau was already backing away from its tale of witness intimidation. In a December 15, 2016 Letter to the Missouri Department of Corrections, the Bureau's Acting Deputy Chief Keith Morgan, wrote:

“[W]e would like to be in a position to provide our Administrative Law Judge with confirmation that your legal department is in fact reviewing Ms. Gremminger's continued participation in the FCC proceeding....In addition...**we would like to be able to explain the reasons why any such review is being conducted....** (Letter attached to Bureau's December 19, 2016 Opposition to Lake's Motion to Strike (emphasis added).

4. By email memo dated January 10, 2017 (attached), the Bureau informed the parties that counsel for the Department of Corrections had responded to the Bureau's letter, requested that the Bureau “should send Ms. Gremminger a subpoena before contacting her further...[and] did not provide any further details regarding why we have lost contact with her”. The Bureau also stated that it had prepared two subpoenas which the Presiding Judge signed and were forwarded to the Department of Corrections.

5. In its February 3, 2017 Status Report, the Bureau summarizes (at Paras. 3 and 4) the materials that it received from the Department of Corrections: “a list of the cases in which Ms. Gremminger has testified in the last four years....and a list of the certifications and training she has completed”. The Bureau also states (Para. 2) that “Ms. Gremminger also reported that she has been cleared by her office to participate in the FCC hearing as provided for in the Bureau's subpoena”.

6. The Bureau's Status Report is deficient in a number of important

respects:

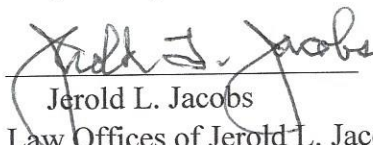
- (1) The Bureau has not supplied copies of the subpoenas, so we do not know how fully the Department of Corrections and Ms. Gremminger responded to them;
- (2) The Bureau has not provided a complete copy of the subpoena responses – only the Bureau’s summary of the responses;
- (3) The list of cases in which Ms. Gremminger has testified does not include important identifying information such as the Court, the Judge, and the type of testimony that Ms. Gremminger was providing;
- (4) The list of certifications does not includes copies of certificates, where the courses took place, under whose auspices, and what kind of certification was given (e.g., just attendance?). Moreover, the course titles suggest that many of the 41 courses listed had little or nothing to do with “the rehabilitation of sex offenders and the performance of risk assessment concerning sex offenders and/or their risk of recidivism” (Status Report, Para. 4); and
- (5) Absolutely no answer is provided to the Bureau’s December 15, 2016 letter asking the Department of Corrections to explain the reasons why any review of Ms. Gremminger earlier role in this case was being conducted.

7. With all of these deficiencies, the Bureau’s Status Report should be rejected as wholly inadequate to move this proceeding forward to hearing. Very serious accusations were made by the Bureau against Mr. Rice concerning alleged

witness intimidation, but there is absolutely no substantiation or apology by the Bureau for this unprincipled fake news. Therefore, Lake believes that justice requires an inquiry at a Prehearing Conference to lay to rest these canards against Mr. Rice before a hearing date is set. The Bureau should also be required to supply the documents described above that it is withholding and to ask the Department of Corrections and/or Ms. Gremminger to respond more fully to the requests for case identification and copies of certifications (if they exist).

WHEREFORE, in view of the foregoing, Lake Broadcasting, Inc. respectfully asks that the Bureau's Status Report should be rejected as-is, and the Bureau should be directed to supply or attempt to obtain the documents described in Paragraph 6. Moreover, a Prehearing Conference should be convened to explore the facts and circumstances surrounding the above-described "witness intimidation" canard against Mr. Michael Rice.

Respectfully submitted,



Jerold L. Jacobs
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(202) 508-3383

Counsel for Lake Broadcasting, Inc.

Dated: February 7, 2017

Attachment (Exhibit A)

Jerold Jacobs

From: William Knowles-Kellett <William.Knowles-Kellett@fcc.gov>
Sent: Tuesday, January 10, 2017 4:37 PM
To: Richard Sippel; Jerold Jacobs
Cc: Pamela Kane; Gary Oshinsky; Rachel Funk; Monique Gray; Patricia Ducksworth
Subject: Email status report re development regarding Ms. Tammy Gremminger, Mo. DOC

Judge Sippel and Mr. Jacobs—

Mr. Jay Boresi, counsel for the Missouri Department of Corrections responded to our letter requesting Ms Gremminger's assistance in the Lake Broadcasting hearing, MB Dkt. 14-82. Mr. Boresi contacted the Enforcement Bureau last Thursday and requested that we send Ms. Gremminger a subpoena before contacting Ms. Gremminger further. Mr. Boresi did not provide any further details regarding why we have lost contact with her.

We prepared a subpoena asking for 1) the documents she has access to in the Missouri Department of Corrections regarding Mr. Rice, 2) the documents requested by Mr. Jacobs (the documents listed in the Bureaus' filing of January 3, 2017), and 3) her testimony at trial at a date to be determined by the court. In addition, we are forwarding to the Missouri Department of Corrections a subpoena for a legible copy of the MOSOP in the hope that the Department of Corrections will have such a copy. The Presiding Judge signed the subpoenas and we are forwarding them to the Missouri Department of Corrections.

We will send a further update when we have additional information.

Respectfully submitted,
Gary Oshinsky and William Knowles-Kellett
Counsel for the Enforcement Bureau

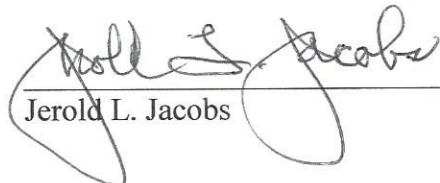
CERTIFICATE OF SERVICE

I, Jerold L. Jacobs, hereby certify that on this 30th day of November, 2016, I filed the foregoing "LAKE BROADCASTING, INC.'S OPPOSITION TO ENFORCEMENT BUREAU'S STATUS REPORT" in ECFS and caused a copy to be sent via First Class United States Mail and via e-mail to the following:

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